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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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VIA HAND DELIVERY

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

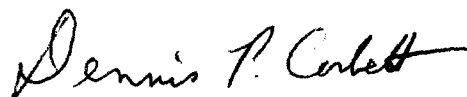
Re: MM Docket No. 87-268

Dear Ms. Salas:

On behalf of Davis Television Pittsburg, LLC, applicant for a construction permit for Channel 14 at Pittsburg, Kansas, Davis Television Corpus Christi, LLC, applicant for a construction permit for a new television broadcast station to operate on Channel 38 at Corpus Christi, Texas, Davis Television Topeka, LLC, applicant for a construction permit for Channel 43 at Topeka, Kansas, and Davis Television Duluth LLC, applicant for a construction permit for Channel 27 at Duluth, Minnesota, I am transmitting herewith an original and eleven copies of their Petition for Reconsideration in the above-referenced proceeding.

Should there be any questions concerning this matter, please contact the undersigned.

Very truly yours,


Dennis P. Corbett

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Enclosures

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ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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APR 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Advanced Television Systems and)
Their Impact Upon the Existing)
Television Broadcast Service)

MM Docket No. 87-268

To: The Commission

**PETITION FOR RECONSIDERATION
OF DAVIS TELEVISION PITTSBURG, LLC, DAVIS TELEVISION
CORPUS CHRISTI, LLC, DAVIS TELEVISION TOPEKA, LLC,
AND DAVIS TELEVISION DULUTH, LLC**

Davis Television Pittsburg, LLC, Davis Television Corpus Christi, LLC, Davis Television Topeka, LLC, and Davis Television Duluth, LLC (collectively, "Davis TV"), by their attorneys and pursuant to Section 1.106 of the Commission's Rules, hereby seek reconsideration of the Commission's February 23, 1998 Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, FCC 98-24 ("Reconsideration MO&O"), in the above-captioned proceeding.^{1/}

^{1/} Public Notice of the Reconsideration MO&O was given in the Federal Register on March 20, 1998, 63 Fed. Reg. 13546 (1998), and this petition is therefore timely filed under 47 C.F.R. §§ 1.106(f), 1.4(b)(1).

**I. A MAJOR CHANGE IN THE LAW GOVERNING APPLICATIONS
FILED WITH THE COMMISSION BEFORE JULY 1, 1997 AMPLY
JUSTIFIES THIS PETITION**

Davis TV has actively participated in this and other FCC proceedings with a single-minded purpose — to maximize the chances of success of its efforts to bring new full-power, over-the-air television service to the various communities for which it has filed construction permit applications with the Commission.^{2/} To that end, it filed comments in this proceeding on December 4, 1996, as well as a June 13, 1997 petition for partial reconsideration of the Commission's April 21, 1997 Sixth Report and Order, FCC 97-115, in this proceeding ("Sixth

^{2/} Davis TV has filed new station construction permit applications for seven communities: Pittsburg, Kansas (File No. BPCT-960920YM); Corpus Christi, Texas (BPCT-960920YW); Topeka, Kansas (BPCT-960920LZ) ("Davis Topeka"); Duluth, Minnesota (BPCT-960920LP) ("Davis Duluth"); Fairmont, West Virginia (BPCT-960920IY) ("Davis Fairmont"); Wausau, Wisconsin (BPCT-960920LY) ("Davis Wausau"); and Waterville, Maine (BPCT-961001LA), and has compiled a consistent record in diligently prosecuting these applications. Davis TV has dismissed its Wausau application to make way for grant of a conflicting application for Channel 55 in Wittenberg, Wisconsin (BPCT-970328KJ) in which Davis TV has been substituted as the "white knight." See Notice of Acceptance for Filing of Television Broadcast Station Applications and Notice of Petition to Deny Deadline, Rept. No. 171, released February 12, 1998, at 8 ("Rept. No. 171"). To facilitate grant of its application for Channel 66 in Fairmont, West Virginia, Davis Fairmont has entered into a settlement agreement by which it would obtain the permit, and it sought reconsideration on March 12, 1998 of the Commission's Report and Order in ET Docket No. 97-157, which reallocates Television Channels 60-69. See Public Notice, Rept. No. 2263, released March 16, 1998, at 2. Davis Topeka, Davis Wausau and Davis Duluth filed comments on January 26, 1998 ("Duluth/Topeka Comments"), and all of the Davis TV entities filed reply comments on February 17, 1998, in MM Docket No. 97-234, GC Docket No. 92-52, and GEN Docket No. 90-264 asking for the immediate grant of "singleton" applications (i.e., ones for which no mutually exclusive applications were filed before July 1, 1997) and for maximum Commission flexibility in approving settlements of mutually exclusive applications. The Waterville application has been dismissed pursuant to a settlement agreement. See Rept. No. 171, supra, at 4.

R&O”). Davis’ pleadings have been premised on the reasonable expectation that because all of its applications were filed either on or before the September 20, 1996 deadline established by the Sixth Further Notice of Proposed Rulemaking, 11 FCC Rcd 10968 (1996) (“Sixth FNPRM”) in this proceeding or in timely response to a cut-off list, these applications would be considered by the Commission in due course and harmonized with the ongoing digital conversion process. Because of the impact of the DTV freeze on certain applications and because of the procedural rules set forth in the Sixth FNPRM, supra, Davis TV understood that there could be substantial delay before application processing and grant. But given the Commission’s explicit allowance of the filing of applications for vacant allotments by September 20, 1996, Davis TV focused its comments and reconsideration petition on the need for the Commission to safeguard a digital future for these new stations-to-be. It has now become apparent to Davis TV that the Commission first needs to take a step to ensure that these applications have an NTSC “present” which can then lead to the digital future.

This petition is appropriate for two reasons. First, the Reconsideration MO&O at ¶¶ 606-07 makes clear for the first time that certain applications not yet accepted for filing were not protected in any way in the selection of paired DTV allotments for existing permittees and licensees and, to the extent a conflicting DTV allotment has been made, the Commission apparently does not plan to allot a replacement NTSC channel for these applications.^{3/}

^{3/} The Reconsideration MO&O’s emphasis on acceptance for filing as critical to determining whether an NTSC allotment survives is puzzling. That is, in its February 12, 1998 Report No. 171, supra, the Commission accepted for filing for the first time a series of new television station applications for communities that had been (quite properly) protected and preserved when the Commission made
(continued...)

Second, and more importantly, the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997) ("Balanced Budget Act"), which did not become law until August 5, 1997, after the last opportunity to present petitions for reconsideration in this proceeding (June 13, 1997), effectuated a dramatic change in the regulatory landscape relating to new station applications. Newly adopted 47 U.S.C. § 309(l) authorized the Commission to utilize auctions to resolve mutual exclusivity between "competing applications for initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997" and mandated that the FCC "waive any provisions of the regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on the date of enactment of the Balanced Budget Act of 1997." (Emphasis added).^{4/} The legislation significantly accelerated the timetable for resolving new station application conflicts and directed the Commission in the broadest of terms to waive regulations standing in the way of the effectuation of settlement agreements between and among applicants who filed their applications before July 1, 1997. This supervening circumstance -- passage of Section 309(l) of the Communications Act -- has a direct and substantial impact on the Commission's approach to NTSC television station applications filed by June 30, 1997 and fully justifies the filing of this petition for further

^{3/}(...continued)

new channel assignments in the DTV allotment table. In any event, in the Sixth FNPRM, supra, the Commission had not made clear that "acceptance for filing" was key to an NTSC applicant's digital future.

^{4/} Notably, the legislation used the phrase "filed with the Commission by July 1, 1997" (emphasis added) and made no reference to acceptance for filing by the Commission.

reconsideration by Davis TV.^{5/} What had been a more distant prospect due to the DTV and Bechtel v. FCC, 10 F.3d 875 (D.C. Cir. 1993) (prior history omitted) application processing freezes has now become an immediate opportunity to bring competition to underserved markets in furtherance of the public interest.

II. BY MAKING SUBSTITUTE NTSC ALLOTMENTS FOR PITTSBURG, CORPUS CHRISTI, TOPEKA AND DULUTH, THE COMMISSION WILL COMPLY WITH THE MANDATE OF 47 U.S.C. § 309(I), ALLOW DAVIS TV APPLICATIONS TO MOVE FORWARD, AND SERVE THE COMPELLING PUBLIC INTEREST OBJECTIVE OF BRINGING NEW, OVER-THE-AIR TELEVISION SERVICE TO UNDERSERVED MARKETS.

This petition concerns four Davis TV applications for NTSC channels in communities where the Commission has made conflicting digital allotments: Pittsburg, Kansas (NTSC Channel 14 in conflict with DTV Channel 14, Kansas City, Kansas); Corpus Christi, Texas (NTSC Channel 38 in conflict with DTV Channel 38, Harlingen, Texas); Topeka, Kansas (NTSC Channel 43 in conflict with DTV Channel 39, Lawrence, Kansas); and Duluth, Minnesota (NTSC Channel 27 in conflict with DTV Channel 27, Menomonie, Wisconsin). See the Engineering Statement of Bernard R. Segal, P.E., attached hereto ("Engineering Statement"). On January 28 and 30, 1998, respectively, an escrow agent separately filed Joint Requests for Approval of Settlement Agreements with respect to Davis TV's Pittsburg, Kansas and Corpus

^{5/} 47 C.F.R. § 1.106(c)(1) (a petition for reconsideration which relies on facts not previously presented to the Commission may be granted where the facts relied on relate to circumstances which have changed since the last opportunity to present such matters). Indeed, under 47 U.S.C. § 405 (1994) and 47 C.F.R. § 1.106(m), Davis TV must raise this important new matter with the Commission as a necessary predicate to any Court appeal.

Christi, Texas applications. Davis is unaware of any competing applications for Topeka or Duluth filed by July 1, 1997, and no settlement agreements exist with respect to those markets. As Davis TV has, however, explained in its Topeka/Duluth Comments, supra, (hereby incorporated by reference), these so-called "singleton" applications should be treated as immediately grantable under the Balanced Budget Act because, under the legislative history, the Commission has already provided the requisite "opportunity to file." In other words, under the legislative history, these singletons should be treated as the functional equivalent of the prevailing party in a settlement agreement.^{6/}

While Davis TV could argue that the conflicting DTV allotments were made after the filing dates of the Davis TV applications and the DTV allotments should therefore be changed,

^{6/} Davis TV has only very recently been informed that, on August 20, 1997, Montgomery Communications, Inc. ("Montgomery") apparently filed a competing application for Channel 43 at Topeka. This filing date falls after the July 1, 1997 deadline established in the Balanced Budget Act. Davis believes it has made a compelling case in the Topeka/Duluth Comments, supra, for immediate grant of its Topeka and Duluth "singleton" applications (singletons because no other applications were filed by June 30, 1997). However, if the Commission nonetheless decides for any reason to treat the Montgomery application as a viable competing application to Davis TV's Topeka application, those two Topeka applicants should be treated as the only two applicants for the Topeka NTSC channel. Likewise, if the Commission decides for any reason not to treat Davis TV's Topeka and Duluth applications as immediately grantable under the Balanced Budget Act, those Davis TV applications should nonetheless be processed expeditiously for the cogent public interest reasons set forth herein. As Davis TV explains herein, the public interest balancing process overwhelmingly favors the preservation of an opportunity for the rapid introduction of new competition to underserved markets over the gratuitous sacrifice of such new service in the name of making new DTV allotments within the "DTV core." Under Davis's proposal set forth below, the finalized DTV Table is left undisturbed, while the new NTSC service is allowed to take root. See 47 C.F.R. § 1.106(c)(2) (the Commission may grant a reconsideration petition where the FCC "determines that consideration of the facts relied on is in the public interest").

Davis TV recognizes that such a change would be disruptive — unnecessarily so because the Engineering Statement demonstrates that alternative NTSC channels are available, as follows: Channel 59 for Pittsburg; Channel 56 for Corpus Christi; Channel 55 for Topeka and Channel 31 for Duluth.^{7/} Although three of these channels are outside the core of 2-51, they are all outside the reallocated Channels 60-69 band and the Commission has now provided a “road map” for how channels between 52 and 59 can be converted to a core DTV channel in the near future. See Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order, FCC 987-23, released February 23, 1998 at ¶¶ 10-16 (“Fifth R&O Reconsideration Order”).

Davis TV therefore requests that the Commission modify the DTV Table of Allotments to specify Channels 59 at Pittsburgh, 56 at Corpus Christi, 55 at Topeka, and 31 at Duluth, provide an opportunity for the submission of technical application amendments by parties to the two settlement agreements and by the “singletons,” and waive any restrictions that impede grant of the two relevant settlement agreements and immediate processing of all of these applications, including the two “singletons”.^{8/}

^{7/} Should the Commission disagree for any reason with the Engineering Statement’s conclusions concerning alternative channels, Davis TV requests that the Commission take all necessary steps to preserve NTSC channels (original or substitute) for these four communities.

^{8/} For example, the Balanced Budget Act mandate, supra, that directs the Commission to waive “any regulation” necessarily supersedes the Commission’s prior case-by-case waiver approach to the DTV freeze. In any event, that freeze should be immediately lifted since it was by its terms temporary and, with the final adoption of the DTV allotment table, has clearly outlived its original purposes and usefulness.

This proposed solution is a true “win-win-win” for the Commission, Davis TV, and the public. The Commission complies with the statutory mandate of Section 309(l) without disruption to the finalized DTV Table of Allotments, the Davis TV applications move forward, and the public is substantially closer to receiving additional service at the earliest possible time in markets which are clearly underserved.

This solution is also entirely consistent with other analogous actions the FCC has taken in its efforts to work a smooth transition of the television industry to digital, while not losing sight of the substantial equities favoring applicants who have invested significant time, money and effort in filing and prosecuting applications, as well as the considerable benefits that flow from adding new stations. For instance, in reallocating Channels 60-69, the Commission has made clear that it will provide a window for the filing of amendments specifying an alternative channel that meets current minimum spacing requirements. Report and Order in ET Docket No. 97-157, 63 Fed. Reg. 6669 (1998), at ¶ 40.^{2/} Likewise, as noted above, in the Fifth R&O Reconsideration Order, *supra*, the Commission adopted flexible new procedures by which post-April 3, 1997 NTSC television station permittees may build a bridge to the digital future.

Davis TV’s solution clearly serves the public interest. There is no rational reason not to give applicants who timely filed new television station applications and either worked to settle their differences with competing applicants or found themselves with singleton applications on July 1, 1997, every opportunity to build those stations and provide important new over-the-air

^{2/} Davis Fairmont has sought reconsideration of that R&O requesting additional flexibility with respect to channel substitution in those instances, like Fairmont, where a settlement agreement was reached within the 180-day statutory window.

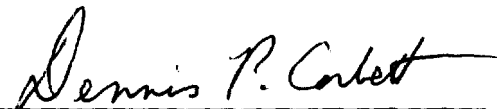
outlets in markets that will otherwise have to wait years for much needed competition. Prompt grant of the requested relief is therefore respectfully requested.

CONCLUSION

For the reasons set forth above, Davis TV respectfully requests reconsideration of the Reconsideration MO&O, as specified above.

Respectfully submitted,

DAVIS TELEVISION PITTSBURG, LLC
DAVIS TELEVISION CORPUS CHRISTI, LLC
DAVIS TELEVISION TOPEKA, LLC
DAVIS TELEVISION DULUTH, LLC

By: 
Dennis P. Corbett
Ross G. Greenberg

Leventhal, Senter & Lerman P.L.L.C.
2000 K Street, N.W.
Suite 600
Washington, DC 20006-1809

April 20, 1998

Its Attorneys

ATTACHMENT

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION PITTSBURG LLC
DAVIS TELEVISION CORPUS CHRISTI LLC
DAVIS TELEVISION TOPEKA LLC
DAVIS TELEVISION DULUTH LLC**

Davis Television Pittsburg LLC, Davis Television Corpus Christi LLC, Davis Television Topeka LLC, and Davis Television Duluth LLC are applicants respectively for construction permits for NTSC facilities as follows:

<u>Community</u>	<u>Channel</u>	<u>File Number</u>
Pittsburg, KS	14	BPCT-960920YM
Corpus Christi, TX	38	BPCT-960920YW
Topeka, KS	43	BPCT-960920YW
Duluth, MN	27	BPCT-960920LP

In light of the DTV allotments reflected in the Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order in MM Docket Number 87-268, none of these channels may be employed in their respective communities. The following table identifies the DTV allotment that precludes use of each analog (NTSC) channel.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
Davis Companies

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<u>NTSC Community & Channel</u>	<u>DTV Allotment Community & Channel</u>	<u>Separation</u>	
		<u>Req. Min.¹ (km)</u>	<u>Actual (km)</u>
Pittsburg, KS (14)	Kansas City, MO (14)	244.6	190.5
Corpus Christi, TX (38)	Harlingen, TX (38)	244.6	145.7
Topeka, KS (43)	Lawrence, KS (39)	<24.1, >96.6	66.3
Duluth, MN (27)	Menomonie, WI (27)	244.6	195.3

In order to achieve the objective of avoiding a conflict with the Table of DTV Allotments while yet maintaining consistency with the current NTSC Table of Allotments, new channels have been identified that could be employed at each community in consonance with the current spacing requirements set forth in the FCC rules. The substitute channels are:

¹ The separation criteria for new DTV allotments with respect to analog TV have been used. The site specified in the Davis pending application and the site indicated in Appendix B for the DTV allotments table were employed to determine the actual separations.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
Davis Companies

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<u>Community</u>	<u>Proposed New NTSC Channel</u>
Pittsburg, KS	59
Corpus Christi, TX	56
Topeka, KS	55
Duluth, MN	31

The accompanying Figures 1 through 4 are channel allocation studies demonstrating compliance with both NTSC and DTV spacing criteria for the substitute NTSC channels identified above. Since the FCC rules do not include separation requirements for new NTSC allotments with respect to DTV allotments,² the separations for new DTV allotments with respect to analog stations were used in the belief that the separations are equally as valid for the reversed condition. In some instances, alternate channels could be employed, but generally, the lowest channel that satisfies spacing conditions has been specified. Frequency offsets have not been indicated, but would be needed for

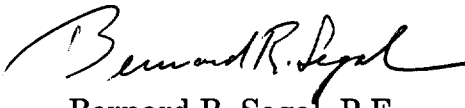
² No new NTSC allotments are contemplated by the Rules.

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

Engineering Statement
Davis Companies

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the actual allotments. The important point of the effort is to demonstrate that an alternate NTSC channel may be employed without undermining NTSC or DTV spacing criteria.


Bernard R. Segal, P.E.
April 17, 1998

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION PITTSBURG LLC
DAVIS TELEVISION CORPUS CHRISTI LLC
DAVIS TELEVISION TOPEKA LLC
DAVIS TELEVISION DULUTH LLC**

Allocation Study for NTSC Channel 59
Pittsburg, KS

A: NTSC Concerns

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
44	None sufficiently close for concern		119.9	
45	None sufficiently close for concern		95.7	
51	None sufficiently close for concern		31.4	
52	None sufficiently close for concern		95.7	
54-57	None sufficiently close for concern		31.4	
58	None sufficiently close for concern		87.7	
59	None sufficiently close for concern		280.8	
60	None sufficiently close for concern		87.7	

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
61-64	None sufficiently close for concern		31.4	
66	None sufficiently close for concern		95.7	
67	None sufficiently close for concern		31.4	

B: DTV Concerns¹

59	None sufficiently close for concern	244.6
58,60	None sufficiently close for concern	<12, >106
57,61,56,62 55,63,52,66 51,67	None sufficiently close for concern	<24.1 >96.6

¹ For the DTV Concerns, the separation criteria for new DTV allotments with respect to analog TV were employed.

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION PITTSBURG LLC
DAVIS TELEVISION CORPUS CHRISTI LLC
DAVIS TELEVISION TOPEKA LLC
DAVIS TELEVISION DULUTH LLC**

Allocation Study for NTSC Channel 56
Corpus Christi, TX

Reference Coordinates: 27° 23' 56" N. Lat.
97° 28' 41" W. Long.

A: NTSC Concerns

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
41	None sufficiently close for concern		119.9	
42	None sufficiently close for concern		95.7	
48	None sufficiently close for concern		31.4	
49	None sufficiently close for concern		95.7	
51-54	None sufficiently close for concern		31.4	
55	None sufficiently close for concern		87.7	
56	None sufficiently close for concern		329	
57	None sufficiently close for concern		87.7	

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
58-61	None sufficiently close for concern		31.4	
63	None sufficiently close for concern		95.7	
64	None sufficiently close for concern		31.4	
<u>B: DTV Concerns¹</u>				
56	None sufficiently close for concern		244.6	
55,57	None sufficiently close for concern		<12, >106	
54,58,53,59, 52,60,49,63, 48,64	None sufficiently close for concern		<24.1, >96.6	

¹ For the DTV Concerns, the separation criteria for new DTV allotments with respect to analog TV were employed.

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION PITTSBURG LLC
DAVIS TELEVISION CORPUS CHRISTI LLC
DAVIS TELEVISION TOPEKA LLC
DAVIS TELEVISION DULUTH LLC**

Allocation Study for NTSC Channel 55
Topeka, KS

Reference Coordinates: 39° 01' 29" N. Lat.
95° 55' 19" W. Long.

A: NTSC Concerns

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
40	None sufficiently close for concern		119.9	
41	KSHB-TV, Kansas City, MO	39° 04' 20" 94° 35' 45"	95.7	114.9
47	None sufficiently close for concern		31.4	
48	None sufficiently close for concern		95.7	
50-53	None sufficiently close for concern		31.4	
54	None sufficiently close for concern		87.7	
55	None sufficiently close for concern		280.8	
56	None sufficiently close for concern		87.7	

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
57-60	None sufficiently close for concern		31.4	
62	None sufficiently close for concern		95.7	
63	None sufficiently close for concern		31.4	
69	None sufficiently close for concern		95.7	
<u>B: DTV Concerns¹</u>				
55	None sufficiently close for concern		244.6	
54,56	None sufficiently close for concern		<12, >106	
47,48,51,52 53,57,58,59 62,63,69	Topeka, KS, Ch. 48	39° 01' 34" 95° 54' 58"	<24.1, >96.6	0.5
	St. Joseph, MO, Ch. 53	39° 46' 12" 94° 47' 53"		127.4
	Kansas City, MO, Ch. 47	39° 04' 59" 94° 28' 49"		125.0
	Kansas City, MO, Ch. 51	39° 01' 19" 94° 30' 50"		121.9

¹ For the DTV Concerns, the separation criteria for new DTV allotments with respect to analog TV were used.

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
DAVIS TELEVISION PITTSBURG LLC
DAVIS TELEVISION CORPUS CHRISTI LLC
DAVIS TELEVISION TOPEKA LLC
DAVIS TELEVISION DULUTH LLC**

Allocation Study for NTSC Channel 31
Duluth, MN

A: NTSC Concerns

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
16	None sufficiently close for concern		119.9	
17	None sufficiently close for concern		95.7	
23	None sufficiently close for concern		31.4	
24	None sufficiently close for concern		95.7	
26-29	Pending Davis Television Duluth application, Ch. 27, supplanted by DTV allotment on Ch. 27 at Menomonie		31.4	
30	None sufficiently close for concern		87.7	
31	None sufficiently close for concern		280.8	

<u>Channel</u>	<u>Closest Facility</u>	<u>Coordinates</u> (N. Lat/ W. Long.)	<u>Separation</u>	
			<u>Req. Min.</u> (km)	<u>Actual</u> (km)
32	None sufficiently close for concern		87.7	
33-36	None sufficiently close for concern		31.4	
38	None sufficiently close for concern		95.7	
39	None sufficiently close for concern		31.4	
45	None sufficiently close for concern		95.7	
46	None sufficiently close for concern		119.9	
<u>B: DTV Concerns¹</u>				
31	None sufficiently close for concern		244.6	
30,32	None sufficiently close for concern		<12, >106	
29,33,28,34	Duluth, MN	46° 47' 07"	<24.1	1
27,35,24,38	Ch. 33	92° 07' 15"	>96.6	
23,39,45,46				
	Duluth, MN	46° 47' 31"		0.3
	Ch. 38	92° 07' 21"		

¹ For the DTV Concerns, the separation criteria for new DTV allotments with respect to analog TV were employed.